IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

WP(C).No. 32195 of 2006(G)

AS.61/1993 of SUB COURT,KOTTARAKKARA
OS.253/1987 of MUNSIFF COURT, PUNALUR

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PETITIONER:

SHAMSUDEEN RAWTER, FAZAL MANZIL,
AGED 60 YEARS, PATTAZHI VADAKKEKARA, MEENAM WARD,
MALOOR VILLAGE, PATHANAPURAM TALUK.

BY ADV. SRI.N.N.SASI

RESPONDENTS:

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1. IBRAHIM KUTTY RAWTHER, AGED 65 YEARS,
S/O.FAKEER MYTHEEN RAWTHER, PALAVILA VEEDU,
PATTAZHI VADAKKEKARA, MEENAM WARD, MALOOR VILLAGE,
PATHANAPURAM TALUK.

2. SULAIMAN RAWTHER, AGED 60 YEARS,
S/O.FAKEER MYTHEEN RAWTHER, PALAVILA VEEDU,
PATTAZHI VADAKKEKARA,
MEENAM WARD, MALOOR VILLAGE,
PATHANAPURAM TALUK.

3. MASOOD RAWTHER,
S/O.FAKEER MYTHEEN RAWTHER, AGED 55 YEARS,
MEENAM WARD, MALOOR VILLAGE,
PATHANAPURAM TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 4 12/2006 THE COURT ON 04/12/2006 DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

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W.P.(C) NO.32195 OF 2006

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Dated this the 4th day of December,2006

JUDGMENT

Petitioner is the defendant in O.S.253/97 on the file of Munsiff Court, Punalur. This petition is filed under Article 227 of the Constitution of India for a direction to Munsiff either to remit or to set aside the report and plan submitted by the Commissioner. Though Ext.P4 objection was filed to the Commissioner's report, petitioner has not filed any application under Order XXVI Rule 10 of Code of Civil Procedure either to set aside the report or to remit the report. In such circumstance, no direction as sought for could be granted. Petitioner is at liberty to approach the court below as provided under Order XXVI Rule 10 of the Code of Civil Procedure either to remit the report or to set aside the report. If such a petition is filed, court may pass appropriate order in accordance with law.

Writ Petition is dismissed.

M.SASIDHARAN NAMBIAR
JUDGE

JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006